



Reprinted
March 21, 2007

ENGROSSED SENATE BILL No. 43

DIGEST OF SB 43 (Updated March 20, 2007 2:08 pm - DI 84)

Citations Affected: IC 35-46; noncode.

Synopsis: Neglect of a dependent. Specifies that a person having the care of a dependent commits neglect of a dependent as a Class C felony if the person's abandonment or cruel confinement of the dependent: (1) deprives a dependent of necessary food, water, or sanitary facilities; (2) consists of confinement in an area not intended for human habitation; or (3) involves the unlawful use of handcuffs, a rope, a cord, tape, or a similar device to physically restrain a dependent. (The introduced version of this bill was prepared by the sentencing policy study committee.)

Effective: July 1, 2007.

Bray, Bowser

(HOUSE SPONSORS — LAWSON L, FOLEY)

January 8, 2007, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 18, 2007, amended, reported favorably — Do Pass.

January 22, 2007, read second time, ordered engrossed. Engrossed.

January 23, 2007, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

March 6, 2007, read first time and referred to Committee on Courts and Criminal Code.

March 15, 2007, amended, reported — Do Pass.

March 19, 2007, read second time, ordered engrossed. Engrossed.

March 20, 2007, read third time, recommitted to Committee of One, amended; passed. Yeas 96, nays 0.

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ES 43—LS 6130/DI 106+



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March 21, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 43

A BILL FOR AN ACT to amend the Indiana Code concerning
criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-46-1-4, AS AMENDED BY HEA 1381-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 4. (a) A person having the care of a dependent,
4 whether assumed voluntarily or because of a legal obligation, who
5 knowingly or intentionally:
6 (1) places the dependent in a situation that endangers the
7 dependent's life or health;
8 (2) abandons or cruelly confines the dependent;
9 (3) deprives the dependent of necessary support; or
10 (4) deprives the dependent of education as required by law;
11 commits neglect of a dependent, a Class D felony.
12 (b) However, the offense is:
13 (1) a Class C felony if it is committed under subsection (a)(1),
14 (a)(2), or (a)(3) and:
15 (A) results in bodily injury; or
16 (B) is:
17 (i) committed in a location where a person is violating

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1 IC 35-48-4-1 (delivery, financing, or manufacture of
 2 cocaine, methamphetamine, or a narcotic drug); or
 3 (ii) the result of a violation of IC 35-48-4-1 (delivery,
 4 financing, or manufacture of cocaine, methamphetamine, or
 5 a narcotic drug);
 6 (2) a Class B felony if it is committed under subsection (a)(1),
 7 (a)(2), or (a)(3) and results in serious bodily injury;
 8 (3) a Class A felony if it is committed under subsection (a)(1),
 9 (a)(2), or (a)(3) by a person at least eighteen (18) years of age and
 10 results in the death of a dependent who is less than fourteen (14)
 11 years of age; and
 12 (4) a Class C felony if it is committed under subsection (a)(2) and
 13 consists of cruel confinement or abandonment that:
 14 (A) deprives a ~~child~~ **dependent** of necessary food, water, or
 15 sanitary facilities;
 16 (B) consists of confinement in an area not intended for human
 17 habitation; or
 18 (C) involves the unlawful use of handcuffs, a rope, a cord,
 19 tape, or a similar device to physically restrain ~~the child~~ **a**
 20 **dependent**.
 21 (c) It is a defense to a prosecution based on an alleged act under this
 22 section that:
 23 (1) the accused person left a dependent child who was, at the time
 24 the alleged act occurred, not more than thirty (30) days of age
 25 with an emergency medical provider who took custody of the
 26 child under IC 31-34-2.5 when:
 27 (A) the prosecution is based solely on the alleged act of
 28 leaving the child with the emergency medical services
 29 provider; and
 30 (B) the alleged act did not result in bodily injury or serious
 31 bodily injury to the child; or
 32 (2) the accused person, in the legitimate practice of the accused
 33 person's religious belief, provided treatment by spiritual means
 34 through prayer, in lieu of medical care, to the accused person's
 35 dependent.
 36 (d) Except for property transferred or received:
 37 (1) under a court order made in connection with a proceeding
 38 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
 39 or IC 31-6-5 before their repeal); or
 40 (2) under IC 35-46-1-9(b);
 41 a person who transfers or receives any property in consideration for the
 42 termination of the care, custody, or control of a person's dependent

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1 child commits child selling, a Class D felony.

2 SECTION 2. [EFFECTIVE JULY 1, 2007] IC 35-46-1-4, as
3 amended by this act, applies only to crimes committed after June
4 30, 2007.

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SENATE MOTION

Madam President: I move that Senator Bowser be added as second author of Senate Bill 43.

BRAY

 COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 43, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 18, after "the" insert "**unlawful**".

and when so amended that said bill do pass.

(Reference is to SB 43 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 0.

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 43, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 14, delete "child" and insert "**dependent**".

Page 2, line 19, delete "the child" and insert "**a dependent**".

and when so amended that said bill do pass.

(Reference is to SB 43 as printed January 19, 2007.)

HOY, Chair

Committee Vote: yeas 9, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 43 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 35-46-1-4, AS AMENDED BY HEA 1381-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

- (1) places the dependent in a situation that endangers the dependent's life or health;
 - (2) abandons or cruelly confines the dependent;
 - (3) deprives the dependent of necessary support; or
 - (4) deprives the dependent of education as required by law;
- commits neglect of a dependent, a Class D felony.

(b) However, the offense is:

- (1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and:

(A) results in bodily injury; or

(B) is:

- (i) committed in a location where a person is violating IC 35-48-4-1 (delivery, financing, or manufacture of cocaine, methamphetamine, or a narcotic drug); or
- (ii) the result of a violation of IC 35-48-4-1 (delivery, financing, or manufacture of cocaine, methamphetamine, or a narcotic drug);

- (2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury;

- (3) a Class A felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; and

- (4) a Class C felony if it is committed under subsection (a)(2) and consists of cruel confinement or abandonment that:

(A) deprives a ~~child~~ **dependent** of necessary food, water, or sanitary facilities;

(B) consists of confinement in an area not intended for human habitation; or

(C) involves the unlawful use of handcuffs, a rope, a cord, tape, or a similar device to physically restrain ~~the child~~ **a dependent**.

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(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of the accused person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the accused person's dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under IC 35-46-1-9(b);

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony."

Delete page 2.

(Reference is to ESB 43 as printed March 16, 2007.)

LAWSON L

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed Senate Bill 43, begs leave to report that said bill has been amended as directed.

LAWSON L

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